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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,261	03/13/2001	Roger Tambay	32887/254287	3199
7590	03/29/2005		EXAMINER	
Charles W. Calkins, Esq. Kilpatrick Stockton, LLP 1001 West 4th Street Winston-Salem, NC 27101			OUELLETTE, JONATHAN P	
			ART UNIT	PAPER NUMBER
			3629	

DATE MAILED: 03/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.	Applicant(s)	
09/805,261	TAMBAY ET AL.	
Examiner	Art Unit	
Jonathan Ouellette	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 13 March 2001.  
2a) This action is FINAL.                    2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1-38 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) \_\_\_\_\_ is/are allowed.  
6) Claim(s) 1-38 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. **Claims 1, 2, 9, 19 and 20 are rejected under 35 U.S.C. 102(e) as being anticipated by Friend et al. (US 2001/0032165 A1).**
3. As per **independent Claim 1**, Friend discloses a system for conducting commerce including a community of participants in a market segment of an industry (abstract) comprising: a computer network; a user; the market segment within the industry of interest to the user; a database for information relevant to the industry or to the market segment accessible to the user via the computer network (Fig.4-7a), the database comprising at least one of: data, a value-added service and a commerce service; and a user interface, wherein the user interface provides access to the information (Para 0011-0016, 0037).
4. As per **independent Claims 9 and 19**, Friend discloses a process for facilitating development of a community of participants in a vertically-related market (abstract) comprising the steps of: identifying a participant (Para 0041, registered user); identifying

an industry of interest to the participant; identifying a market segment within the industry of interest to the participant; compiling information relevant to the industry or to the market segment comprising at least one of: data, a value-added service and a commerce service; and displaying the information (Para 0011-0016, 0037).

5. As per Claims 2 and 20, Friend discloses wherein the computer network comprises the Internet.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
  - (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
7. **Claims 3-8, 10-18, 21-38 are rejected under 35 U.S.C. 103 as being unpatentable over Friend.**
8. As per Claims 3, 4, 10-14, and 21-25, Friend does not expressly show wherein the community comprises a market segment within an industry, a plurality of market segments within an industry, a single industry, the chemical industry, the paint and coatings market segment of the chemicals industry, or the adhesives and sealants market segment of the chemical industry.
9. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The commerce conducting

system/process would be performed regardless of the type of community used. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a community comprising a market segment within an industry, a plurality of market segments within an industry, a single industry, the chemical industry, the paint and coatings market segment of the chemicals industry, or the adhesives and sealants market segment of the chemical industry, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.
11. As per Claims 5, 15, and 26, Friend does not expressly show wherein the system further comprises one or more of the following users (market participants): a feedstock producer; a raw material producer; a manufacturer; an end user of the manufacturer's product; an original equipment manufacturer; and a supporting participant, wherein the supporting participant comprises one of: a consulting firm, a testing firm, or a logistics firm and an indirect supply manufacturer.
12. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The commerce conducting system/process would be performed regardless of the type of user (market participants) involved. Thus, this descriptive material will not distinguish the claimed invention from

the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

13. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have involved a feedstock producer; a raw material producer; a manufacturer; an end user of the manufacturer's product; an original equipment manufacturer; and a supporting participant, wherein the supporting participant comprises one of: a consulting firm, a testing firm, or a logistics firm and an indirect supply manufacturer in the system, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

14. As per Claims 6, 16, and 30, Friend does not expressly show wherein the data comprise at least one of: a corporate detail; a market information report; a business intelligence report; an end-user customer product demand report; a product offering; a service offering; and a logistics detail.

15. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The commerce conducting system/process would be performed regardless of the type of data used. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

16. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided data to include: a corporate detail; a market

information report; a business intelligence report; an end-user customer product demand report; a product offering; a service offering; and a logistics detail, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

17. As per Claims 7, 17, 31, 35 and 37, Friend does not expressly show wherein the value-added service comprises at least one of: a Material Safety Data Sheet; a starting-point formula; a formulation determination calculator; a problem solving service; a market report; a business intelligence report; training service; executant with access managed through an object brokering service; and a scripted function executed with an ASP program.
18. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The commerce conducting system/process would be performed regardless of the value-added service provided. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).
19. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a value-added service comprising at least one of: a Material Safety Data Sheet; a starting-point formula; a formulation determination calculator; a problem solving service; a market report; a business intelligence report; training service; executant with access managed through an object brokering service; and a scripted function executed with an ASP program, because such data does not

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functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

20. As per Claims 8, 18, 32, 36 and 38, Friend does not expressly show wherein commerce service comprises at least one of: a multi-vendor product catalog; a liquid exchange for high-volume commodities; a customer-specific pricing functionality; a quotation functionality; a purchasing-agent service; a surplus-auction service; single point system-to-system integration service; executant with access managed through an object brokering service; and a scripted function executed with an ASP program.
21. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The commerce conducting system/process would be performed regardless of the commerce service provided. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).
22. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided a commerce service comprising at least one of: a multi-vendor product catalog; a liquid exchange for high-volume commodities; a customer-specific pricing functionality; a quotation functionality; a purchasing-agent service; a surplus-auction service; single point system-to-system integration service; executant with access managed through an object brokering service; and a scripted function executed with an ASP program, because such data does not functionally relate to

the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

23. As per Claims 27-29, Friend does not expressly show wherein the database comprises a Microsoft SQLServer database or a document repository.

24. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The commerce conducting system/process would be performed regardless of the database used. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

25. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used a database comprising a Microsoft SQLServer database or a document repository, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

26. As per Claims 33-34, Friend does not expressly show wherein the user interface comprises an HTML page.

27. However these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. The commerce conducting system/process would be performed regardless of the user interface used. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms

of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

28. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used an user interface comprising an HTML page, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

### *Conclusion*

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

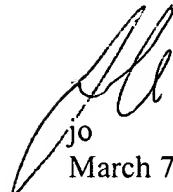
30. The following non-patent literature is cited to show the best non-patent literature prior art found by the examiner:

**Democker, Judy, "B-To-B Aggregators – Vertical Domination – Vertical Aggregators Have More Than Turned A Few Heads. Now They're Poised To Dominate B-To-B E-Commerce. Can They Pull It Off?" InternetWeek, February 7, 2000.**

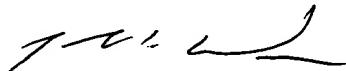
Democker discloses a commerce conducting system, wherein buyers and sellers are aggregated online.

31. Additional Literature has been referenced on the attached PTO-892 form, and the Examiner suggests the applicant review these documents before submitting any amendments.

32. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (703) 605-0662 ((571) 272-6807 effective April 13, 2005). The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
33. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned (703) 872-9306 for all official communications.
34. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-5484.



jo  
March 7, 2005



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